IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

WP(C).No. 5579 of 2007(L)

PETITIONERS:

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1. R. PADMAGIREESH,
"KRISHNANJANAM", IRUPPAKKAVADAKKATHIL,
KUNNIKODE P.O., KOTTARAKKARA, KOLLAM DISTRICT,
PIN-691508.

2. DR. LAKSHMI R.NAIR,
IRUPPAKKAVADAKKATHIL, KUNNIKODE P.O.,
KOTTARAKKARA, KOLLAM DISTRICT-691508.

3. INDU R.,
THENGILAZHIKATH VEEDU, CHITHARA P.O.,KOLLAM DIST.

4. MEERA R.NAIR,
IRUPPAKKAVADAKKATHIL, KUNNIKODE P.O.,
KOTTARAKKARA, KOLLAM DISTRICT-691508.

BY ADV. SRI.GEORGE POONTHOTTAM
SRI.T.R.RAVI

RESPONDENTS:

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1. THE DEPUTY DIRECTOR OF EDUCATION,
KOLLAM.

2. THE DISTRICT EDUCATIONAL OFFICER,
PUNALUR.

ADDL. 3. R. PARVATHY, ANASWARA, THEVALLY PO, KOLLAM.

ADDL. 4. R. CHITRA, IRRUPPAKKAVADAKKATHIL, KUNNIKODE PO, KOTTARAKKARA, KOLLAM DISTRICT.

(ADDL. RESPONDENTS 3 & 4 ARE IMPLEADED AS PER ORDER DATED 13.3.2007 IN I.A. NO. 3230/07).

R1 & R2 BY GOVERNMENT PLEADER (SHRI T.T. MUHAMMED)

R3 & R4 BY ADV. SRI.ANIL XAVIER
SRI.M.SHAHEED AHMAD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.(C) NO. 5579 OF 2007 L

PETITIONERS' EXHIBITS:

EXT.P1	**TRUE COPY OF THE ORDER NO. B3/6706/99/K. DIS. DATED 19.8.1999.**
EXT.P2	**TRUE COPY OF THE ORDER NO. B3.3968/01 K. DIS. DATED 5.7.2001 OF THE DEO, PUNALUR.**
EXT.P3	**TRUE COPY OF THE ORDER NO. B3.7099/2001 K. DIS. DATED 12.11.2001 OF THE DEO, PUNALUR.**
EXT.P4	**TRUE COPY OF THE CONSTITUTION OF APPMVHSS.**
EXT.P5	**TRUE COPY OF THE GO (RT) NO.158/07/G. EDN. DATED 11.1.2007.**
EXT.P6	**TRUE COPY OF THE COMMUNICATION NO.B3-2610/06 DATED 19.10.2006.**
EXT.P7	**TRUE COPY OF THE LETTER DATED 15.11.2006 GIVEN TO THE 1ST RESPONDENT.**
EXT.P8	**TRUE COPY OF THE COMMUNICATION NO.B6/28639/06 DATED 25.1.2007.**
EXT.P9	**TRUE COPY OF THE AGREEMENT EXECUTED BY LATE P. RAMACHANDRAN NAIR, P. RAVINDRAN PILLAI AND AMBUJAKSHI AMMA ON 16.6.1975.**

// TRUE COPY//

PS TO JUDGE

K. M. JOSEPH, J.

W.P.C. NO. 5579 OF 2007 L

Dated this the 13th March, 2007

JUDGMENT

Case of petitioners, in brief, is as follows:

Petitioners are members of the Corporate Educational Agency, which constitute a majority of the members. There are six legal heirs. Therefore, it has become necessary to get the constitution approved. According to petitioners, the majority have approved the constitution and submitted it for approval to the first respondent. Age is prescribed as the basis for tenure of administration to all the members of the Educational Agency, it is submitted. It is the case of the petitioners that in order to avoid administrative stalemate, the constitution ought to have been approved. Petitioners have taken out notice by messenger on the other heirs also.

2. Heard the learned counsel for petitioners, Shri Anil Xavier, learned counsel appearing on behalf of additional respondents 3 & 4, besides the learned Government Pleader.

Shri Anil Xavier would contend that the additional respondents were not informed about the framing of the constitution. It is submitted that in fact, they were not consulted in the matter of framing of the constitution and since the constitution has not been unanimously framed, it has no validity and the remedy of the parties lie in approaching the appropriate civil court. It is also pointed out that in Ext.P8, the Deputy Director noted that two members of the Managing Committee have not signed the byelaw submitted for approval, and that a Report should also be obtained from the persons concerned, and he reiterates that the byelaw, unless it is passed unanimously, is bereft of legal efficacy, and there is no merit in the Writ Petition.

3. I feel that the additional respondents should be left free to urge all these contentions before the statutory authority concerned. Accordingly, the Writ Petition is disposed of with a direction to the first respondent to consider and take a decision on Ext.P4 in accordance with law, after affording an opportunity of hearing to the petitioners and additional respondents 3 and 4,

within a period of six weeks from the date of receipt of a copy of this Judgment. I leave open the contentions of petitioners and additional respondents 3 and 4. Petitioners can also rely on Ext.P5. I make it clear that I have not expressed any view on the merits of the petitioners' case.

K. M. JOSEPH, JUDGE

kbk.